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10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Statement of Issues Against:

14 TINA DORIS JENKINS

26 S. Cays Court

15 Coronado, CA 92118

16 Respondent.

Case No. 2007-286

OAH No. L-2007060667

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, § 11520]

18 **FINDINGS OF FACT**

19 1. On or about June 6, 2007, Complainant Ruth Ann Terry, M.P.H, R.N, in  
20 her official capacity as the Executive Officer of the Board of Registered Nursing, filed Statement  
21 of Issues No.2007-286 against Tina D. Jenkins (Respondent) before the Board of Registered  
22 Nursing.

23 2. On or about August 17, 2004, Respondent filed an application dated  
24 August 13, 2004, with the Board to obtain a registered nursing license.

25 3. On or about January 13, 2006, the Board issued a letter denying  
26 Respondent's application. On or about February 26, 2006, Respondent appealed the Board's  
27 denial of her application and requested a hearing.

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1                   4.       On or about June 13, 2007, Veronica R. Cruz, an employee of the  
2 Department of Justice, served by Certified and First Class Mail a copy of the Statement of Issues  
3 No. 2007-286, Statement to Respondent, Respondent/Applicant's Notice of Designation of  
4 Counsel, Respondent/Applicant's Notice of Withdrawal of Request for Hearing, Request for  
5 Discovery, Government Code sections 11507.5, 11507.6, and 11507.7, and Disciplinary  
6 Guidelines to Respondent's address on the application form, which was and is 26 S. Cays Court,  
7 Coronado, CA 92118. A copy of the Statement of Issues, the related documents, and Declaration  
8 of Service are attached as Exhibit A, and are incorporated herein by reference.

9                   5.       Service of the Statement of Issues was effective as a matter of law under  
10 the provisions of Government Code section 11505, subdivision (c).

11                  6.       Respondent previously submitted applications for licensure or requests for  
12 reapply/repeat examination on March 24, 1998, November 20, 1998, March 13, 2000, November  
13 18, 2000, April 8, 2002, and July 8, 2003.

14                  7.       On or about June 15, 2007, Respondent faxed to the Office of the Attorney  
15 General a signed copy of Respondent/Applicant's Notice of Withdrawal of Request for Hearing  
16 On or about June 18, 2007, Respondent faxed to the Office of Attorney General a second signed  
17 copy of Respondent/Applicant's Notice of Withdrawal of Request for Hearing. Copies of the  
18 requests are attached as Exhibit B, and are incorporated herein by reference.

19                  8.       Government Code section 11506 states, in pertinent part:

20                       "(c) The respondent shall be entitled to a hearing on the merits if the respondent  
21 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the  
22 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
23 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

24                  9.       California Government Code section 11520 states, in pertinent part:

25                       "(a) If the respondent either fails to file a notice of defense or to appear at the  
26 hearing, the agency may take action based upon the respondent's express admissions or upon  
27 other evidence and affidavits may be used as evidence without any notice to respondent; and

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1 where the burden of proof is on the respondent to establish that the respondent is entitled to the  
2 agency action sought, the agency may act without taking evidence.”

3 10. Business and Professions Code section 118(a) states:

4 “(a) The withdrawal of an application for a license after it has been filed with the  
5 board in the department shall not, unless the board has consented in writing to such withdrawal,  
6 deprive the board of its authority to institute or continue a proceeding against the applicant for  
7 the denial of the license upon any ground provided by law or to enter an order denying the license  
8 upon any such ground.”

9 11. Pursuant to its authority under Government Code section 11520 and  
10 Business and Professions Code section 118(a), the Board finds Respondent is in default. The  
11 Board will take action without further hearing and, based on Respondent's express admissions by  
12 way of default and the evidence before it, contained in Exhibits A and B, finds that the  
13 allegations, and each of them, in Statement of Issues No. 2007-286 are true.

14 DETERMINATION OF ISSUES

15 1. Based on the foregoing findings of fact, Respondent Tina Jenkins has  
16 subjected her application for a registered nursing license to denial.

17 2. Service of Statement of Issues No. 2007-286 and related documents was  
18 proper and in accordance with the law.

19 3. The agency has jurisdiction to adjudicate this case by default.

20 4. The Board of Registered Nursing is authorized to deny Respondent's  
21 application for licensure based upon the following violations alleged in the Statement of Issues:

22 5. 2006 Criminal Conviction for DUI - Arrest Date: 1/1/06

23 a. Respondent's application is subject to denial under both Business and  
24 Professions Code sections 480(a)(1) and 2761(f) for conviction of a crime substantially related to  
25 the qualifications, functions, or duties of a registered nurse in that on or about June 13, 2006, in a  
26 criminal proceeding entitled *People v. Tina Doris Jenkins* in San Diego County Superior Court,  
27 Case Number S200180, Respondent was convicted by plea of guilty to a violation of Vehicle  
28 Code section 23152(a), a misdemeanor. The circumstances are as follows:

1                   1.       On or about January 1, 2006, drove her vehicle while under the  
2 influence of alcohol. She had a blood alcohol concentration of 0.15 or more, by weight,  
3 within the meaning of Vehicle Code section 23578.

4                   2.       Respondent was placed on summary probation; sentenced to 180  
5 days in jail, suspended for 5 years; ordered to pay a \$1,900 fine; ordered to attend and  
6 complete a 9 month First Conviction Program; and ordered to attend and complete a  
7 MADD course, among other terms and conditions.

8                   6.       **2003 Criminal Conviction for Alcohol Related Disorderly Conduct -**  
9 **Arrest Date: 5/16/03**

10                  a.       Respondent's application is subject to denial under section under both  
11 Business and Professions Code sections 480(a)(1) and 2761(f) for conviction of a crime  
12 substantially related to the qualifications, functions, or duties of a registered nurse in that on or  
13 about May 16, 2003, in Orange County Superior Court Case No. 03SM01845, Respondent was  
14 convicted of alcohol related disorderly conduct, a violation of Penal Code section 647(f), a  
15 misdemeanor. The circumstances are as follows:

16                   1.       On or about April 1, 2003, Respondent was found in a public place  
17 under the influence of intoxicating liquor, or any drug, controlled substance, toluene, or  
18 any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a  
19 condition that she was unable to exercise care for her own safety or the safety of others,  
20 or by reason of her being under the influence of intoxicating liquor, any drug, controlled  
21 substance, toluene, or any combination of any intoxicating liquor, drug, or toluene,  
22 interfered with or obstructed or prevented the free use of any street, sidewalk, or other  
23 public way.

24                   2.       On or about May 16, 2003, Respondent was placed on one year  
25 probation and ordered to attend Alcoholic Anonymous meetings.

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1                   7.     **Dishonest, Fraudulent or Deceitful Act**

2                   a.     Respondent's application is subject to denial under section under Code  
3 section 480(a)(2) and 480(c) for dishonest acts concerning applications to the Board, as more  
4 particularly alleged below:

5                   1.     On or about July 8, 2003, Respondent signed (and thereafter  
6 submitted to the Board) a "Request for Reapply/Repeat Examination." That  
7 reapplication form included the following question: "Have you ever been convicted of  
8 any offense other than minor traffic violations?" The question included the following  
9 instruction: "Include convictions reported on previous applications." Respondent  
10 answered "Yes" and disclosed a 1995 DUI already on file with the Board, but she did not  
11 reveal her 2003 conviction for alcohol related disorderly conduct.

12                  2.     On or about August 13, 2004, Respondent signed (and thereafter  
13 submitted to the Board) a "Request for Reapply/Repeat Examination." That  
14 reapplication form included the following question: "Have you ever been convicted of  
15 any offense other than minor traffic violations?" The question included the following  
16 instruction: "Include convictions reported on previous applications." Respondent  
17 answered "No," failing to reveal her previous 1995 DUI and her 2003 alcohol related  
18 disorderly conduct convictions.

19                   8.     **Aggravating Factor**

20                  a.     In April 1995, Respondent was convicted in San Diego Municipal Court,  
21 South Bay District, in case no. S93857, of violating Vehicle Code section 23152(a) (driving  
22 under the influence of alcohol and/or drugs). She was placed on 5 years probation; sentenced to  
23 96 hours in county jail (consecutive weekends authorized); to pay a fine of \$1500; and to attend  
24 and complete an alcohol treatment program, among other terms and conditions.

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1 ORDER

2 IT IS SO ORDERED that the application of Respondent TINA D. JENKINS is  
3 hereby denied.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may  
5 serve a written motion requesting that the Decision be vacated and stating the grounds relied on  
6 within seven (7) days after service of the Decision on Respondent. The agency in its discretion  
7 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the  
8 statute.

9 This Decision shall become effective on NOVEMBER 18, 2007.

10 It is so ORDERED OCTOBER 18, 2007

11  
12 *LaTranene W Tate*

13 FOR THE BOARD OF REGISTERED NURSING

14  
15 DOJ docket number:SD2006700646  
80159925.wpd

16 Attachments:

17 Exhibit A: Statement of Issues No. 2007-286d Documents, and Declaration of Service

18 Exhibit B: Respondent/Applicant's Notices of Withdrawal of Request for Hearing  
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Exhibit A

Statement of Issues No. 2007-286,  
Related Documents, and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General  
of the State of California

2 MARGARET A. LAFKO

Supervising Deputy Attorney General

3 KATHLEEN B.Y. LAM, State Bar No. 95379

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11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2007-286

13 TINA DORIS JENKINS

14 26 S. Cays Court

15 Coronado, CA 92118

**STATEMENT OF ISSUES**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Statement of Issues  
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
21 Department of Consumer Affairs.

22 2. On or about August 17, 2004, the Board of Registered Nursing, Department of  
23 Consumer Affairs (Board) received the most recent "Request for Reapply/Repeat Examination  
24 for a registered nurse license from Tina Doris Jenkins (Respondent). On or about August 13,  
25 2004, Tina Doris Jenkins certified under penalty of perjury to the truthfulness of all statements,  
26 answers, and representations in the reapplication. The Board denied the reapplication on January  
27 13, 2006.

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1           3.       On or about July 8, 2003, Respondent submitted a "Request for Reapply/Repeat  
2 Examination" to the Board. Tina Doris Jenkins certified under penalty of perjury to the  
3 truthfulness of all statements, answers, and representations in this reapplication.

4                                   **JURISDICTION**

5           4.       This Statement of Issues is brought before the Board under the authority of the  
6 following laws of the Business and Professions Code, unless otherwise indicated.

7                                   **Statutory Provisions**

8           A.       Section 2736 of the Business and Professions Code (Code) provides, in pertinent  
9 part, that the Board of Registered Nursing (Board) may deny a license when it finds that the  
10 applicant has committed any acts constituting grounds for denial of licensure under section 480  
11 of that Code.

12           B.       Section 480 of the Code states:

13               "(a) A board may deny a license regulated by this code on the grounds that the applicant  
14 has one of the following:

15               "(1) Been convicted of a crime. A conviction *within the meaning of this section* means a  
16 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a  
17 board is permitted to take following the establishment of a conviction may be taken when the  
18 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when  
19 an order granting probation is made suspending the imposition of sentence, irrespective of a  
20 subsequent order under the provisions of Section 1203.4 of the Penal Code.

21               "(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially  
22 benefit himself or another, or substantially injure another; or

23               ". . . .

24               "The board may deny a license pursuant to this subdivision only if the crime or act is  
25 substantially related to the qualifications, functions or duties of the business or profession for  
26 which application is made.

27               "(b) Notwithstanding any other provision of this code, no person shall be denied a license  
28 solely on the basis that he has been convicted of a felony if he has obtained a certificate of

1 rehabilitation under Section 4852.01 and following of the Penal Code or that he has been  
2 convicted of a misdemeanor if he has met all applicable requirements of the criteria of  
3 rehabilitation developed by the board to evaluate the rehabilitation of a person when considering  
4 the denial of a license under subdivision (a) of Section 482.

5 "(c) A board may deny a license regulated by this code on the ground that the applicant  
6 knowingly made a false statement of fact required to be revealed in the application for such  
7 license."

8 C. Section 2761 of the Code states in pertinent part:

9 "The board may take disciplinary action against a certified or licensed nurse or deny an  
10 application for a certificate or license for any of the following:

11 ". . . .

12 "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
13 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
14 conclusive evidence thereof.

15 ". . . ."

#### 16 Regulatory Provisions

17 D. California Code of Regulations, Title 16, section 1444 states in pertinent part:

18 "A conviction or act shall be considered to be substantially related to the qualifications,  
19 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
20 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
21 safety, or welfare. . . ."

22 E. California Code of Regulations, Title 16, section 1445 states in pertinent part:

23 "(a) When considering the denial of a license under Section 480 of the code, the board, in  
24 evaluating the rehabilitation of the applicant and his/her present eligibility for a license will  
25 consider the following criteria:

26 "(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for  
27 denial.

28 "(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under

1 consideration as grounds for denial which also could be considered as grounds for denial under  
2 Section 480 of the code.

3 "(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in  
4 subdivision (1) or (2).

5 "(4) The extent to which the applicant has complied with any terms of parole, probation,  
6 restitution, or any other sanctions lawfully imposed against the applicant.

7 "(5) Evidence, if any, of rehabilitation submitted by the applicant."

### 8 **CHARGES AND ALLEGATIONS**

#### 9 **FIRST CAUSE FOR DENIAL OF APPLICATION**

10 **(2006 Criminal Conviction for DUI - Arrest Date: 1/1/06)**

11 5. Respondent's application is subject to denial under both Code sections 480(a)(1)  
12 and 2761 (f) for conviction of a crime substantially related to the qualifications, functions, or  
13 duties of a registered nurse in that on or about June 13, 2006, in a criminal proceeding entitled  
14 *People v. Tina Doris Jenkins* in San Diego County Superior Court, Case Number S200180,  
15 Respondent was convicted by plea of guilty to a violation of Vehicle Code section 23152(a), a  
16 misdemeanor. The circumstances are as follows:

17 A. On or about January 1, 2006, drove her vehicle while under the influence of  
18 alcohol. She had a blood alcohol concentration of 0.15 or more, by weight, within the meaning  
19 of Vehicle Code section 23578.

20 B. Respondent was placed on summary probation; sentenced to 180 days in jail,  
21 suspended for 5 years; ordered to pay a \$1,900 fine; ordered to attend and complete a 9 month  
22 First Conviction Program; and ordered to attend and complete a MADD course, among other  
23 terms and conditions.

#### 24 **SECOND CAUSE FOR DENIAL OF APPLICATION**

25 **(2003 Criminal Conviction for Alcohol Related Disorderly Conduct -**  
26 **Arrest Date: 5/16/03)**

27 6. Respondent's application is subject to denial under section under both Code  
28 sections 480(a)(1) and 2761 (f) for conviction of a crime substantially related to the

1 qualifications, functions, or duties of a registered nurse in that on or about May 16, 2003, in  
2 Orange County Superior Court Case No. 03SM01845, Respondent was convicted of alcohol  
3 related disorderly conduct, a violation of Penal Code section 647(f), a misdemeanor. The  
4 circumstances are as follows:

5 A. On or about April 1, 2003, Respondent was found in a public place under the  
6 influence of intoxicating liquor, or any drug, controlled substance, toluene, or any combination of  
7 any intoxicating liquor, drug, controlled substance, or toluene, in a condition that she was unable  
8 to exercise care for her own safety or the safety of others, or by reason of her being under the  
9 influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of  
10 any intoxicating liquor, drug, or toluene, interfered with or obstructed or prevented the free use of  
11 any street, sidewalk, or other public way.

12 B. On or about May 16, 2003, Respondent was placed on one year probation and  
13 ordered to attend Alcoholic Anonymous meetings.

14 **THIRD CAUSE FOR DENIAL OF APPLICATION**

15 **(Dishonest, Fraudulent or Deceitful Act)**

16 7. Respondent's application is subject to denial under section under Code section  
17 480(a)(2) and 480(c) for dishonest acts concerning applications to the Board, as more particularly  
18 alleged below:

19 A. On or about July 8, 2003, Respondent signed (and thereafter submitted to the  
20 Board) a "Request for Reapply/Repeat Examination." That reapplication form included the  
21 following question: "Have you ever been convicted of any offense other than minor traffic  
22 violations?" The question included the following instruction: "Include convictions reported on  
23 previous applications." Respondent answered "Yes" and disclosed a 1995 DUI already on file  
24 with the Board, but she did not reveal her 2003 conviction for alcohol related disorderly conduct.

25 B. On or about August 13, 2004, Respondent signed (and thereafter submitted to the  
26 Board) a "Request for Reapply/Repeat Examination." That reapplication form included the  
27 following question: "Have you ever been convicted of any offense other than minor traffic  
28 violations?" The question included the following instruction: "Include convictions reported on

1 previous applications." Respondent answered "No," failing to reveal her previous 1995 DUI and  
2 her 2003 alcohol related disorderly conduct convictions.

3 AGGRAVATING FACTOR


4 8. In April 1995, Respondent was convicted in San Diego Municipal Court, South  
5 Bay District, in case no. S93857, of violating Vehicle Code section 23152(a) (driving under the  
6 influence of alcohol and/or drugs). She was placed on 5 years probation; sentenced to 96 hours  
7 in county jail (consecutive weekends authorized); to pay a fine of \$1500; and to attend and  
8 complete an alcohol treatment program, among other terms and conditions.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
11 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Denying the application of Tina Doris Jenkins for a registered nurse license;  
13 2. Taking such other and further action as deemed necessary and proper.

14 DATED: June 6, 2007

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17   
18 RUTH ANN TERRY, M.P.H., R.N.  
19 Executive Officer  
20 Board of Registered Nursing  
21 Department of Consumer Affairs  
22 State of California

23 Complainant

24 SD2006700646  
25 80129718.wpd

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